

Notice of Allowability

Application No.

10/717,402

Examiner

Anu Ramana

Applicant(s)

HUEBNER, RANDALL J.

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview conducted on December 1, 2006.
2. ☒ The allowed claim(s) is/are 33-42, 46, 48-51 and 53-55.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Anu Ramana

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with the Practitioner of Record, Stanley M. Hollenberg, on December 1, 2006. See attached Interview Summary Form.

The application has been amended as follows:

In the Specification (see amendment dated May 18, 2006):

In line 3 of the replacement paragraph for the paragraph found on page 1, lines 10-18 of the specification, after "2003," inserted - - now US Patent No. 7,090,676 - - to update the status of the copending application.

In line 6 of the replacement paragraph for the paragraph found on page 14, lines 8-14 of the specification, after "2003," inserted - - now US Patent No. 7,090,676 - - to update the status of the copending application.

In the claims (see amendment dated September 18, 2006):

In claim 41

In line 1, - - wherein - - has been inserted after "33," to correct a minor typographical error.

Also, in line 1, replaced "having" with - - has - - to correct a minor typographical error.

In line 2, - - and - - has been inserted after the comma.

In claim 51

In line 1, -- wherein -- has been inserted after "48," to correct a minor typographical error.

Also, in line 1, replaced "having" with -- has -- to correct a minor typographical error.

In line 2, -- and -- has been inserted after the comma.

In claim 54

In line 5, replaced "one tool" with -- a pair of tools --.

In line 7, replaced "at least one tool" with -- pair of tools --.

In line 10, replaced "at least one tool" with -- pair of tools --.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The claims in the instant application have not been rejected using prior art because no references or a reasonable combination thereof, could be found which disclose or suggest a method of bone fixation including the step of deforming a bone plate, which has anchor portions and has been secured to a bone region, after the step of securing the anchor portions to respective bone regions on opposing sides of a bone discontinuity, to change a relative angular disposition of the anchor portions and thus of the respective bone regions to which the anchor portions are secured wherein the step of deforming is performed with at least one tool by placing the tool in threaded engagement with the bone plate as set forth in claim 33.

The claims in the instant application have not been rejected using prior art because no references or a reasonable combination thereof, could be found which disclose or suggest a method of bone fixation including the step of apply a deforming torque to a bone plate, which has anchor portions and has been secured to a bone region, after the step of securing the anchor portions to respective bone regions on opposing sides of a bone discontinuity, to change a relative angular disposition of the

anchor portions and thus of the respective bone regions to which the anchor portions are secured, wherein the step of applying a deforming torque is performed with at least one tool by placing the tool in threaded engagement with the bone plate as set forth in claim 48.

The claims in the instant application have not been rejected using prior art because no references or a reasonable combination thereof, could be found which disclose or suggest a method of bone fixation including the step of apply a deforming torque to a bone plate, which has anchor portions and has been secured to a bone region, after the step of securing the anchor portions to respective bone regions on opposing sides of a bone discontinuity, to change a relative angular disposition of the anchor portions and thus of the respective bone regions to which the anchor portions are secured, wherein the step of applying a deforming torque is performed with a pair of tools placed in threaded engagement with a pair of openings in the bone plate as set forth in claim 54.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (571) 272-4718. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached at (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anu Ramana
December 5, 2006

A handwritten signature in black ink, reading "Anuradha Ramana". The signature is written in a cursive style with a large, stylized initial 'A'.